

110TH CONGRESS
2D SESSION

S. 3473

To resolve water rights claims of the White Mountain Apache Tribe in the State of Arizona, and for other purposes.

IN THE SENATE OF THE UNITED STATES

SEPTEMBER 11, 2008

Mr. KYL introduced the following bill; which was read twice and referred to the Committee on Indian Affairs

A BILL

To resolve water rights claims of the White Mountain Apache Tribe in the State of Arizona, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “White Mountain
5 Apache Tribe Water Rights Quantification Act of 2008”.

6 **SEC. 2. FINDINGS AND PURPOSES.**

7 (a) FINDINGS.—Congress finds that—

8 (1) proceedings to determine the nature and ex-
9 tent of the water rights of the White Mountain

1 Apache Tribe, members of the Tribe, the United
2 States, and other claimants are pending in—

3 (A) the consolidated civil action in the Su-
4 perior Court of the State of Arizona for the
5 County of Maricopa styled In re the General
6 Adjudication of All Rights To Use Water In
7 The Gila River System and Source, W-1 (Salt),
8 W-2 (Verde), W-3 (Upper Gila), W-4 (San
9 Pedro); and

10 (B) the civil action pending in the Superior
11 Court of the State of Arizona for the County of
12 Apache styled In re the General Adjudication of
13 All Rights to Use Water in the Little Colorado
14 River System and Source and numbered CIV-
15 6417;

16 (2) a final resolution of those proceedings
17 might—

18 (A) take many years;

19 (B) entail great expense;

20 (C) prolong uncertainty concerning the
21 availability of water supplies; and

22 (D) seriously impair the long-term eco-
23 nomic well-being of all parties to the pro-
24 ceedings;

1 (3) the Tribe, non-Indian communities located
2 near the reservation of the Tribe, and other Arizona
3 water users have agreed—

4 (A) to permanently quantify the water
5 rights of the Tribe, members of the Tribe, and
6 the United States in its capacity as trustee for
7 the Tribe and members in accordance with the
8 Agreement; and

9 (B) to seek funding, in accordance with
10 applicable law, for the implementation of the
11 Agreement;

12 (4) it is the policy of the United States to quan-
13 tify, to the maximum extent practicable, water rights
14 claims of Indian tribes without lengthy and costly
15 litigation;

16 (5) as of the date of enactment of this Act, the
17 tribal water rights are unquantified vested property
18 rights held in trust by the United States for the ben-
19 efit of the Tribe; and

20 (6) in keeping with the trust responsibility of
21 the United States to Indian tribes, and to promote
22 tribal sovereignty and economic self-sufficiency, it is
23 appropriate that the United States participate in
24 and contribute funds for the implementation of the
25 Agreement.

1 (b) PURPOSES.—The purposes of this Act are—

2 (1) to authorize, ratify, and confirm the Agree-
3 ment;

4 (2) to authorize and direct the Secretary to exe-
5 cute the Agreement and carry out all obligations of
6 the Secretary under the Agreement;

7 (3) to authorize the actions and appropriations
8 necessary for the United States to meet the obliga-
9 tions of the United States under the Agreement and
10 this Act; and

11 (4) to permanently resolve certain damage
12 claims and all water rights claims among—

13 (A) the Tribe and its members;

14 (B) the United States in its capacity as
15 trustee for the Tribe and its members;

16 (C) the parties to the Agreement; and

17 (D) all other claimants in the proceedings
18 referred to in subsection (a)(1).

19 **SEC. 3. DEFINITIONS.**

20 In this Act:

21 (1) AGREEMENT.—The “Agreement” means—

22 (A) the WMAT Water Rights Quantifica-
23 tion Agreement dated _____; and

1 (B) any amendment or exhibit (including
2 exhibit amendments) to that agreement that
3 are—

4 (i) made in accordance with this Act;

5 or

6 (ii) otherwise approved by the Sec-
7 retary.

8 (2) BUREAU.—The term “Bureau” means the
9 Bureau of Reclamation.

10 (3) CAP.—The term “CAP” means the rec-
11 lamation project authorized and constructed by the
12 United States in accordance with title III of the Col-
13 orado River Basin Project Act (43 U.S.C. 1521 et
14 seq.).

15 (4) CAP CONTRACTOR.—The term “CAP con-
16 tractor” means an individual or entity that has en-
17 tered into a long-term contract (as that term is used
18 in the repayment stipulation) with the United States
19 for delivery of water through the CAP system.

20 (5) CAP FIXED OM&R CHARGE.—The term
21 “CAP fixed OM&R charge” has the meaning given
22 the term in the repayment stipulation.

23 (6) CAP M&I PRIORITY WATER.—The term
24 “CAP M&I priority water” means the CAP water

1 having a municipal and industrial delivery priority
2 under the repayment contract.

3 (7) CAP SUBCONTRACTOR.—The term “CAP
4 subcontractor” means an individual or entity that
5 has entered into a long-term subcontract (as that
6 term is used in the repayment stipulation) with the
7 United States and the District for the delivery of
8 water through the CAP system.

9 (8) CAP SYSTEM.—The term “CAP system”
10 means—

11 (A) the Mark Wilmer Pumping Plant;

12 (B) the Hayden-Rhodes Aqueduct;

13 (C) the Fannin-McFarland Aqueduct;

14 (D) the Tucson Aqueduct;

15 (E) any pumping plant or appurtenant
16 works of a feature described in any of subpara-
17 graphs (A) through (D); and

18 (F) any extension of, addition to, or re-
19 placement for a feature described in any of sub-
20 paragraphs (A) through (E).

21 (9) CAP WATER.—The term “CAP water”
22 means “Project Water” (as that term is defined in
23 the repayment stipulation).

24 (10) CONTRACT.—The term “Contract”
25 means—

1 (A) the contract between the Tribe and the
 2 United States attached as exhibit 7.1 to the
 3 Agreement and numbered 08-XX-30-W0529
 4 and dated _____; and

5 (B) any amendments to that contract.

6 (11) DISTRICT.—The term “District” means
 7 the Central Arizona Water Conservation District, a
 8 political subdivision of the State that is the con-
 9 tractor under the repayment contract.

10 (12) ENFORCEABILITY DATE.—The term “en-
 11 forceability date” means the date described in sec-
 12 tion 12(c)(1).

13 (13) INJURY TO WATER RIGHTS.—

14 (A) IN GENERAL.—The term “injury to
 15 water rights” means an interference with, dimi-
 16 nution of, or deprivation of, a water right under
 17 Federal, State, or other law.

18 (B) INCLUSIONS.—The term “injury to
 19 water rights” includes—

20 (i) a change in the groundwater table;

21 and

22 (ii) any effect of such a change.

23 (C) EXCLUSION.—The term “injury to
 24 water rights” does not include any injury to
 25 water quality.

1 (14) OFF-RESERVATION TRUST LAND.—The
2 term “off-reservation trust land” means land—

3 (A) located outside the exterior boundaries
4 of the reservation that is held in trust by the
5 United States for the benefit of the Tribe as of
6 the enforceability date; and

7 (B) depicted on the map attached to the
8 Agreement as exhibit 2.57.

9 (15) OPERATING AGENCY.—The term “Oper-
10 ating Agency” means the 1 or more entities author-
11 ized to assume responsibility for the care, operation,
12 maintenance, and replacement of the CAP system.

13 (16) REPAYMENT CONTRACT.—The term “re-
14 payment contract” means—

15 (A) the contract between the United States
16 and the District for delivery of water and re-
17 payment of the costs of the CAP, numbered
18 14-06-W-245 (Amendment No. 1), and dated
19 December 1, 1988; and

20 (B) any amendment to, or revision of, that
21 contract.

22 (17) REPAYMENT STIPULATION.—The term
23 “repayment stipulation” means the stipulated judg-
24 ment and the stipulation for judgment (including
25 any exhibits to those documents) entered on Novem-

ber 21, 2007, in the United States District Court for the District of Arizona in the consolidated civil action styled Central Arizona Water Conservation District v. United States, et al., and numbered CIV 95–625–TUC–WDB (EHC) and CIV 95–1720–PHX–EHC.

(18) RESERVATION.—

(A) IN GENERAL.—The term “reservation” means the land within the exterior boundary of the White Mountain Indian Reservation established by the Executive order dated November 9, 1871, as modified by subsequent Executive orders and Acts of Congress—

(i) known on the date of enactment of this Act as the “Fort Apache Reservation” pursuant to the Act of June 7, 1897 (30 Stat. 62, chapter 3); and

(ii) generally depicted on the map attached to the Agreement as exhibit 2.81.

(B) NO EFFECT ON DISPUTE OR AS ADMISSION.—The depiction of the reservation described in subparagraph (A)(ii) shall not—

(i) be used to affect any dispute between the Tribe and the United States

1 concerning the legal boundary of the res-
2 ervation; and

3 (ii) constitute an admission by the
4 Tribe with regard to any dispute between
5 the Tribe and the United States con-
6 cerning the legal boundary of the reserva-
7 tion.

8 (19) SECRETARY.—The term “Secretary”
9 means the Secretary of the Interior.

10 (20) STATE.—The term “State” means the
11 State of Arizona.

12 (21) TRIBAL CAP WATER.—The term “tribal
13 CAP water” means the CAP water to which the
14 Tribe is entitled pursuant to the Contract.

15 (22) TRIBAL WATER RIGHTS.—The term “tribal
16 water rights” means the water rights of the Tribe
17 described in paragraph 4.0 of the Agreement.

18 (23) TRIBE.—The term “Tribe” means the
19 White Mountain Apache Tribe organized under sec-
20 tion 16 of the Act of June 18, 1934 (commonly
21 known as the “Indian Reorganization Act”) (25
22 U.S.C. 476).

23 (24) WATER RIGHT.—The term “water right”
24 means any right in or to groundwater, surface
25 water, or effluent under Federal, State, or other law.

1 (25) WMAT RURAL WATER SYSTEM.—The
 2 term “WMAT rural water system” means the mu-
 3 nicipal, rural, and industrial water diversion, stor-
 4 age, and delivery system described in section 7.

5 (26) YEAR.—The term “year” means a cal-
 6 endar year.

7 **SEC. 4. APPROVAL OF AGREEMENT.**

8 (a) APPROVAL.—

9 (1) IN GENERAL.—Except to the extent that
 10 any provision of the Agreement conflicts with a pro-
 11 vision of this Act, the Agreement is authorized, rati-
 12 fied, and confirmed.

13 (2) AMENDMENTS.—Any amendment to the
 14 Agreement is authorized, ratified, and confirmed, to
 15 the extent that such an amendment is executed to
 16 ensure the Agreement is consistent with this Act.

17 (b) EXECUTION OF AGREEMENT.—To the extent that
 18 the Agreement does not conflict with this Act, the Sec-
 19 retary shall—

20 (1) execute the Agreement (including signing
 21 any exhibit to the Agreement requiring the signature
 22 of the Secretary); and

23 (2) execute any amendment to the Agreement
 24 necessary to ensure the Agreement is consistent with
 25 this Act.

1 (c) NATIONAL ENVIRONMENTAL POLICY ACT.—

2 (1) ENVIRONMENTAL COMPLIANCE.—In imple-
3 menting the Agreement, the Secretary shall prompt-
4 ly comply with all applicable requirements of—

5 (A) the National Environmental Policy Act
6 of 1969 (42 U.S.C. 4321 et seq.);

7 (B) the Endangered Species Act of 1973
8 (16 U.S.C. 1531 et seq.);

9 (C) all other applicable environmental
10 laws; and

11 (D) all regulations promulgated under the
12 laws described in subparagraphs (A) through
13 (C).

14 (2) EXECUTION OF AGREEMENT.—

15 (A) IN GENERAL.—Execution of the Agree-
16 ment by the Secretary under this section shall
17 not constitute a major Federal action under the
18 National Environmental Policy Act of 1969 (42
19 U.S.C. 4321 et seq.).

20 (B) ENVIRONMENTAL COMPLIANCE.—The
21 Secretary shall carry out all necessary environ-
22 mental compliance required by Federal law in
23 implementing the Agreement.

24 (3) LEAD AGENCY.—The Bureau shall serve as
25 the lead agency with respect to ensuring environ-

1 mental compliance associated with the WMAT rural
2 water system.

3 **SEC. 5. WATER RIGHTS.**

4 (a) RIGHTS HELD IN TRUST.—The tribal water
5 rights shall be held in trust by the United States on behalf
6 of Tribe.

7 (b) REALLOCATION.—

8 (1) IN GENERAL.—In accordance with this Act
9 and the Agreement, the Secretary shall reallocate to
10 the Tribe, and offer to enter into a contract with the
11 Tribe for the delivery in accordance with this section
12 of—

13 (A) an annual entitlement to 23,782 acre-
14 feet per year of CAP water that has a non-In-
15 dian agricultural delivery priority (as defined in
16 the Contract) in accordance with section
17 104(a)(1)(A)(iii) of the Arizona Water Settle-
18 ments Act (Public Law 108–451; 118 Stat.
19 3488), of which—

20 (i) 3,750 acre-feet per year shall be
21 firmed by the United States for the benefit
22 of the Tribe for the 100-year period begin-
23 ning on January 1, 2008, with priority
24 equivalent to CAP M&I priority water, in

1 accordance with section 105(b)(1)(B) of
2 that Act (118 Stat. 3492); and

3 (ii) 3,750 acre-feet per year shall be
4 firmed by the State for the benefit of the
5 Tribe for the 100-year period beginning on
6 January 1, 2008, with priority equivalent
7 to CAP M&I priority water, in accordance
8 with section 105(b)(2)(B) of that Act (118
9 Stat. 3492); and

10 (B) an annual entitlement to 1,218 acre-
11 feet per year of the water—

12 (i) acquired by the Secretary through
13 the permanent relinquishment of the
14 Harquahala Valley Irrigation District CAP
15 subcontract entitlement in accordance with
16 the contract numbered 3–07–30–W0290
17 among the District, Harquahala Valley Ir-
18 rigation District, and the United States;
19 and

20 (ii) converted to CAP Indian Priority
21 water (as defined in the Contract) pursu-
22 ant to the Fort McDowell Indian Commu-
23 nity Water Rights Settlement Act of 1990
24 (Public Law 101–628; 104 Stat. 4480).

1 (2) AUTHORITY OF TRIBE.—Subject to approval
2 by the Secretary under section 6(a)(1), the Tribe
3 shall have the sole authority to lease, distribute, ex-
4 change, or allocate the tribal CAP water described
5 in paragraph (1).

6 (c) WATER SERVICE CAPITAL CHARGES.—The Tribe
7 shall not be responsible for any water service capital
8 charge for tribal CAP water.

9 (d) ALLOCATION AND REPAYMENT.—For the pur-
10 pose of determining the allocation and repayment of costs
11 of any stages of the CAP constructed after November 21,
12 2007, the costs associated with the delivery of water de-
13 scribed in subsection (b), regardless of whether the water
14 is delivered for use by the Tribe or in accordance with
15 any assignment, exchange, lease, option to lease, or other
16 agreement for the temporary disposition of water entered
17 into by Tribe, shall be—

18 (1) nonreimbursable; and

19 (2) excluded from the repayment obligation of
20 the District.

21 (e) WATER CODE.—Not later than 18 months after
22 the enforceability date, the Tribe shall enact a water code
23 that—

24 (1) governs the tribal water rights; and

25 (2) includes, at a minimum—

1 (A) provisions requiring the measurement,
2 calculation, and recording of all diversions and
3 depletions of water on the reservation and on
4 off-reservation trust land;

5 (B) terms of a water conservation plan, in-
6 cluding objectives, conservation measures, and
7 an implementation timeline;

8 (C) provisions requiring the approval of
9 the Tribe for the severance and transfer of
10 rights to the use of water from historically irri-
11 gated land identified in paragraph 11.3.2.1 of
12 the Agreement to diversions and depletions on
13 other non-historically irrigated land not located
14 on the watershed of the same water source; and

15 (D) provisions requiring the authorization
16 of the Tribe for all diversions of water on the
17 reservation and on off-reservation trust land by
18 any individual or entity other than the Tribe.

19 **SEC. 6. CONTRACT.**

20 (a) IN GENERAL.—The Secretary shall enter into the
21 Contract, in accordance with the Agreement, to provide,
22 among other things, that—

23 (1) the Tribe, on approval of the Secretary,
24 may—

1 (A) enter into contracts or options to lease
2 or exchange tribal CAP water in Maricopa,
3 Pinal, and Pima Counties in the State pro-
4 viding for the temporary delivery to any indi-
5 vidual or entity of any portion of the tribal
6 CAP water, subject to the condition that—

7 (i) the term of the contract or option
8 to lease shall not be longer than 100 years;

9 (ii) the contracts or options to ex-
10 change shall be for the term provided in
11 the contract or option; and

12 (iii) a lease or option to lease pro-
13 viding for the temporary delivery of tribal
14 CAP water shall require the lessee to pay
15 to the Operating Agency all CAP fixed
16 OM&R charges and all CAP pumping en-
17 ergy charges (as defined in the repayment
18 stipulation) associated with the leased
19 water; and

20 (B) renegotiate any lease at any time dur-
21 ing the term of the lease, subject to the condi-
22 tion that the term of the renegotiated lease
23 shall not exceed 100 years;

24 (2) no portion of the tribal CAP water may be
25 permanently alienated;

1 (3)(A) the Tribe (and not the United States in
2 any capacity) shall be entitled to all consideration
3 due to the Tribe under any contract or option to
4 lease or exchange tribal CAP water entered into by
5 the Tribe; and

6 (B) the United States (in any capacity) has no
7 trust or other obligation to monitor, administer, or
8 account for, in any manner—

9 (i) any funds received by the Tribe as con-
10 sideration under a contract or option to lease or
11 exchange tribal CAP water; or

12 (ii) the expenditure of those funds;

13 (4)(A) all tribal CAP water shall be delivered
14 through the CAP system; and

15 (B) if the delivery capacity of the CAP system
16 is significantly reduced or anticipated to be signifi-
17 cantly reduced for an extended period of time, the
18 Tribe shall have the same CAP delivery rights as a
19 CAP contractor or CAP subcontractor that is al-
20 lowed to take delivery of water other than through
21 the CAP system;

22 (5) the Tribe may use tribal CAP water on or
23 off the reservation for any purpose;

24 (6) as authorized by subsection (f)(2)(A) of sec-
25 tion 403 of the Colorado River Basin Project Act

(43 U.S.C. 1543) and to the extent that funds are available in the Lower Colorado River Basin Development Fund established by subsection (a) of that section, the United States shall pay to the Operating Agency the CAP fixed OM&R charges associated with the delivery of tribal CAP water (except in the case of tribal CAP water leased by any individual or entity);

(7) the Secretary shall waive the right of the Secretary to capture all return flow from project exchange water flowing from the exterior boundary of the reservation; and

(8) no CAP water service capital charge shall be due or payable for the tribal CAP water, regardless of whether the water is delivered for use by the Tribe or pursuant to a contract or option to lease or exchange tribal CAP water entered into by the Tribe.

(b) REQUIREMENTS.—The Contract shall be—

(1) for permanent service (within the meaning of section 5 of the Boulder Canyon Project Act (43 U.S.C. 617d)); and

(2) without limit as to term.

(c) RATIFICATION.—

1 (1) IN GENERAL.—Except to the extent that
 2 any provision of the Contract conflicts with a provi-
 3 sion of this Act, the Contract is authorized, ratified,
 4 and confirmed.

5 (2) AMENDMENTS.—Any amendment to the
 6 Contract is authorized, ratified, and confirmed, to
 7 the extent that such an amendment is executed to
 8 ensure the Contract is consistent with this Act.

9 (d) EXECUTION OF CONTRACT.—To the extent that
 10 the Contract does not conflict with this Act, the Secretary
 11 shall execute the Contract.

12 (e) PAYMENT OF CHARGES.—The Tribe, and any re-
 13 cipient of tribal CAP water through a contract or option
 14 to lease or exchange, shall not be obligated to pay a water
 15 service capital charge or any other charge, payment, or
 16 fee for CAP water, except as provided in an applicable
 17 lease or exchange agreement.

18 (f) PROHIBITIONS.—

19 (1) USE OUTSIDE STATE.—No tribal CAP
 20 water may be leased, exchanged, forborne, or other-
 21 wise transferred by the Tribe in any way for use di-
 22 rectly or indirectly outside the State.

23 (2) USE OFF RESERVATION.—Except as author-
 24 ized by this section and paragraph 4.7 of the Agree-
 25 ment, no tribal water rights under this Act may be

1 sold, leased, transferred, or used outside the bound-
2 aries of the reservation or off-reservation trust land
3 other than pursuant to an exchange.

4 (3) AGREEMENTS WITH ARIZONA WATER BANK-
5 ING AUTHORITY.—Nothing in this Act or the Agree-
6 ment limits the right of the Tribe to enter into an
7 agreement with the Arizona Water Banking Author-
8 ity established by section 45–2421 of the Arizona
9 Revised Statutes (or any successor entity), in ac-
10 cordance with State law.

11 (g) LEASES.—

12 (1) IN GENERAL.—To the extent the leases of
13 tribal CAP Water by the Tribe to the District and
14 to any of the cities, attached as exhibits to the
15 Agreement, are not in conflict with the provisions of
16 this Act—

17 (A) those leases are authorized, ratified,
18 and confirmed; and

19 (B) the Secretary shall execute the leases.

20 (2) AMENDMENTS.—To the extent that amend-
21 ments are executed to make the leases described in
22 paragraph (1) consistent with this Act, those amend-
23 ments are authorized, ratified, and confirmed.

1 **SEC. 7. AUTHORIZATION OF THE RURAL WATER SYSTEM.**

2 (a) IN GENERAL.—Subject to the availability of ap-
3 propriations, the Secretary, acting through the Bureau,
4 shall plan, design, construct, operate, maintain, replace,
5 and rehabilitate the WMAT rural water system as gen-
6 erally described in the project extension report dated Feb-
7 ruary 2007.

8 (b) COMPONENTS.—The WMAT rural water system
9 under subsection (a) shall consist of—

10 (1) a dam and storage reservoir, pumping
11 plant, and treatment facilities located along the
12 North Fork White River near the community of
13 Whiteriver;

14 (2) pipelines extending from the water treat-
15 ment plants to existing water distribution systems
16 serving the Whiteriver, Carrizo, and Cibecue areas,
17 together with other communities along the pipeline;

18 (3) connections to existing distribution facili-
19 ties, including public and private water systems in
20 existence on the date of enactment of this Act;

21 (4) appurtenant buildings and access roads;

22 (5) electrical power transmission and distribu-
23 tion facilities necessary for services to rural water
24 system facilities;

25 (6) all property and property rights necessary
26 for the facilities described in this subsection; and

1 (7) such other project components as the Sec-
2 retary determines to be appropriate to meet the
3 water supply, economic, public health, and environ-
4 mental needs of the portions of the reservation
5 served by the WMAT rural water system, including
6 water storage tanks, water lines, and other facilities
7 for the Tribe and the villages and towns on the res-
8 ervation.

9 (c) SERVICE AREA.—The service area of the WMAT
10 rural water system shall be as described in the Project
11 Extension report dated February 2007.

12 (d) CONSTRUCTION REQUIREMENTS.—The compo-
13 nents of the WMAT rural water system shall be planned
14 and constructed to a size that is sufficient to meet the
15 municipal, rural, and industrial water supply requirements
16 of the WMAT rural water system service area during the
17 period beginning on the date of enactment of this Act and
18 ending not earlier than December 31, 2040.

19 (e) TITLE.—Title to the WMAT rural water system
20 shall be held in trust by the United States in its capacity
21 as trustee for the Tribe.

22 (f) TECHNICAL ASSISTANCE.—The Secretary shall
23 provide such technical assistance as is necessary to enable
24 the Tribe to plan, design, construct, operate, maintain,

1 and replace the WMAT rural water system, including op-
 2 eration and management training.

3 (g) APPLICABILITY OF ISDEAA.—Planning, design,
 4 construction, operation, maintenance, rehabilitation, and
 5 replacement of the WMAT rural water system on the res-
 6 ervation shall be subject to the Indian Self-Determination
 7 and Education Assistance Act (25 U.S.C. 450 et seq.).

8 (h) CONDITION.—As a condition of construction of
 9 the facilities authorized by this section, the Tribe shall
 10 provide, at no cost to the Secretary, all land or interests
 11 in land, as appropriate, that the Secretary identifies as
 12 being necessary for those facilities.

13 **SEC. 8. OUTDOOR RECREATION FACILITIES, NATIONAL**
 14 **FISH HATCHERIES, AND EXISTING IRRIGA-**
 15 **TION SYSTEMS.**

16 (a) IN GENERAL.—Subject to the availability of ap-
 17 propriations, on request of the Tribe, the Secretary shall
 18 provide financial and technical assistance to complete the
 19 Hawley Lake, Horseshoe Lake, Reservation Lake, Sunrise
 20 Lake, and Big and Little Bear Lake reconstruction
 21 projects and facilities improvements, as generally de-
 22 scribed in the Bureau report entitled “White Mountain
 23 Apache Tribe Recreation Planning Study—April 2003”.

24 (b) ALCHEsay WILLIAMS CREEK NATIONAL FISH
 25 HATCHERY COMPLEX.—

1 (1) IN GENERAL.—Subject to the availability of
2 appropriations, the Secretary shall operate, main-
3 tain, rehabilitate, and upgrade the Alchesay-Wil-
4 liams Creek National Fish Hatchery Complex on the
5 reservation for the continued general and primary
6 benefit of the Tribe and the White Mountain region.

7 (2) COMPLEX REHABILITATION.—The rehabili-
8 tation of, and upgrades to, the complex described in
9 paragraph (1) shall include—

10 (A) raceway construction and rehabilita-
11 tion, water quality improvements, a water recir-
12 culation system, supplemental water treatment
13 capability, equipment acquisition, and building
14 rehabilitation; and

15 (B) capital improvement and deferred
16 maintenance facility needs identified in the re-
17 ports of the United States Fish and Wildlife
18 Service entitled “Facilities Needs Assessment”
19 and “Merrick Report” and dated September
20 2000, as updated through 2008.

21 (c) TRIBE FISHERY CENTER.—Subject to the avail-
22 ability of appropriations, the Secretary shall plan, design,
23 construct, operate, maintain, rehabilitate, and replace a
24 fish grow-out facility, to be known as the “WMAT Fishery

1 Center”, on the west side of the reservation for the benefit
 2 of the Tribe, consisting of—

- 3 (1) a 10,000-square foot indoor facility;
- 4 (2) circular fiberglass tanks;
- 5 (3) plumbing and required equipment;
- 6 (4) collection and conveyance water systems;
- 7 and
- 8 (5) raceways and ponds.

9 (d) SUNRISE SKI PARK SNOW-MAKING INFRASTRUC-
 10 TURE.—Subject to the availability of appropriations, the
 11 Secretary shall plan, design, and construct snow-making
 12 capacity and infrastructure for Sunrise Ski Park, con-
 13 sisting of—

- 14 (1) enlargement of Ono Lake;
- 15 (2) replacement of snow-making infrastructure,
- 16 as necessary; and
- 17 (3) expansion of snow-making infrastructure
- 18 and capacity to all ski runs on Sunrise Peak, Apache
- 19 Peak, and Cyclone Peak.

20 (e) EXISTING IRRIGATION SYSTEM REHABILITA-
 21 TION.—Subject to the availability of appropriations, the
 22 Secretary shall operate, maintain, rehabilitate, and up-
 23 grade the Canyon Day and other historic irrigation sys-
 24 tems on the reservation for the continued general and pri-
 25 mary benefit of the Tribe.

1 (f) APPLICABILITY OF ISDEAA.—Planning, design,
2 construction, operation, maintenance, rehabilitation, re-
3 placement, and upgrade of the projects identified in this
4 section shall be subject to the Indian Self-Determination
5 and Education Assistance Act (25 U.S.C. 450 et seq.).

6 **SEC. 9. FEASIBILITY STUDY OF NEEDED FOREST PROD-**
7 **UCTS IMPROVEMENTS.**

8 (a) FEASIBILITY STUDY.—Subject to the availability
9 of appropriations, on receipt of a request by the Tribe and
10 pursuant to the Indian Self-Determination and Education
11 Assistance Act (25 U.S.C. 450 et seq.), the Secretary shall
12 conduct a feasibility study of options for—

13 (1) improving the manufacture and use of tim-
14 ber products derived from commercial forests on the
15 reservation; and

16 (2) improving forest management practices,
17 consistent with sustained yield principles for multi-
18 purpose forest uses, healthy forest initiatives, and
19 other applicable law to supply raw materials for fu-
20 ture manufacture and use.

21 (b) REPORT.—Not later than 2 years after the date
22 of enactment of this Act, the Secretary, with concurrence
23 of the tribal council of the Tribe, shall submit to Congress
24 a report describing the results of the feasibility study
25 under subsection (a), including recommendations of the

1 Secretary, if any, for the improvements described in that
2 subsection.

3 (c) IMPLEMENTATION.—Subject to the availability of
4 appropriations, the Secretary shall plan, design, and con-
5 struct the improvements recommended under subsection
6 (b).

7 **SEC. 10. RECREATION IMPOUNDMENTS AND RELATED FA-**
8 **CILITIES.**

9 Subject to the availability of appropriations, on re-
10 ceipt of a request by the Tribe and pursuant to the Indian
11 Self-Determination and Education Assistance Act (25
12 U.S.C. 450 et seq.), the Secretary shall—

13 (1) conduct a feasibility study of recreation im-
14 poundments throughout the reservation;

15 (2) develop recommendations for the implemen-
16 tation, by not later than 1 year after the date of en-
17 actment of this Act, of feasible recreation impound-
18 ments; and

19 (3) plan, design, and construct any rec-
20 ommended recreation impoundments and related
21 recreation facilities.

22 **SEC. 11. SATISFACTION OF CLAIMS.**

23 (a) IN GENERAL.—The benefits realized by the Tribe
24 and its members under this Act shall be in full satisfaction
25 of all claims of the Tribe and its members for water rights

1 and injury to water rights, except as set forth in the
 2 Agreement, under Federal, State, or other law with re-
 3 spect to the reservation and off-reservation trust land.

4 (b) USES OF WATER.—All uses of water on lands
 5 outside of the reservation, if and when such lands are sub-
 6 sequently and finally determined to be part of the reserva-
 7 tion through resolution of any dispute between the Tribe
 8 and the United States over the location of the reservation
 9 boundary, and any fee lands within the reservation put
 10 into trust and made part of the reservation, shall be sub-
 11 ject to the maximum annual diversion amounts and the
 12 maximum annual depletion amounts specified in the
 13 Agreement.

14 (c) NO RECOGNITION OF WATER RIGHTS.—Notwith-
 15 standing subsection (a), nothing in this Act has the effect
 16 of recognizing or establishing any right of a member of
 17 the Tribe to water on the reservation.

18 **SEC. 12. WAIVER AND RELEASE OF CLAIMS.**

19 (a) IN GENERAL.—

20 (1) CLAIMS AGAINST THE STATE AND OTH-
 21 ERS.—Except as provided in subparagraph 12.6 of
 22 the Agreement, the Tribe, on behalf of itself and its
 23 members, and the United States, acting in its capac-
 24 ity of trustee for the Tribe and its members as part
 25 of the performance of their obligations under the

1 Agreement, are authorized to execute a waiver and
 2 release of any claims against the State (or any agen-
 3 cy or political subdivision of the State), or any other
 4 person, entity, corporation, or municipal corporation
 5 under Federal, State, or other law for all—

6 (A)(i) past, present, and future claims for
 7 water rights for the reservation and off-reserva-
 8 tion trust land arising from time immemorial
 9 and, thereafter, forever; and

10 (ii) past, present, and future claims for
 11 water rights arising from time immemorial and,
 12 thereafter, forever, that are based upon aborigi-
 13 nal occupancy of land by the Tribe, its mem-
 14 bers, or their predecessors;

15 (B)(i) past and present claims for injury to
 16 water rights for the reservation and off-reserva-
 17 tion trust land arising from time immemorial
 18 through the enforceability date;

19 (ii) past, present, and future claims for in-
 20 jury to water rights arising from time immemo-
 21 rial and, thereafter, forever, that are based
 22 upon aboriginal occupancy of land by the Tribe
 23 and its members, or their predecessors; and

24 (iii) claims for injury to water rights aris-
 25 ing after the enforceability date for the reserva-

tion and off-reservation trust land resulting from off-reservation diversion or use of water in a manner not in violation of the Agreement or State law; and

(C) past, present, and future claims arising out of or relating in any manner to the negotiation or execution of the Agreement or the negotiation or enactment of this Act.

(2) CLAIMS AGAINST TRIBE.—Except as provided in subparagraph 12.8 of the Agreement, the United States, in all its capacities (except as trustee for an Indian tribe other than the Tribe), as part of the performance of its obligations under the Agreement, is authorized to execute a waiver and release of any and all claims against the Tribe, its members, or any agency, official, or employee of the Tribe, under Federal, State, or any other law for all—

(A) past and present claims for injury to water rights resulting from the diversion or use of water on the reservation and on off-reservation trust land arising from time immemorial through the enforceability date;

(B) claims for injury to water rights arising after the enforceability date resulting from the diversion or use of water on the reservation

1 and on off-reservation trust land in a manner
 2 not in violation of the Agreement; and

3 (C) past, present, and future claims aris-
 4 ing out of or related in any manner to the nego-
 5 tiation or execution of the Agreement or the ne-
 6 gotiation or enactment of this Act.

7 (3) CLAIMS AGAINST THE UNITED STATES.—

8 Except as provided in subparagraph 12.7 of the
 9 Agreement, the Tribe, on behalf of itself and its
 10 members, as part of the performance of its obliga-
 11 tions under the Agreement, is authorized to execute
 12 a waiver and release of any claim against the United
 13 States, including agencies, officials, or employees
 14 thereof (except in the United States capacity as
 15 trustee for other tribes), under Federal, State, or
 16 other law for any and all—

17 (A)(i) past, present, and future claims for
 18 water rights for the reservation and off-reserva-
 19 tion trust land arising from time immemorial
 20 and, thereafter, forever; and

21 (ii) past, present, and future claims for
 22 water rights arising from time immemorial and,
 23 thereafter, forever, that are based on aboriginal
 24 occupancy of land by the Tribe and its mem-
 25 bers, or their predecessors;

1 (B)(i) past and present claims relating in
2 any manner to damages, losses, or injuries to
3 water, water rights, land, or other resources
4 due to loss of water or water rights (including
5 but not limited to damages, losses or injuries to
6 hunting, fishing, gathering, or cultural rights
7 due to loss of water or water rights; claims re-
8 lating to interference with, diversion or taking
9 of water; or claims relating to failure to protect,
10 acquire, or develop water, water rights or water
11 infrastructure) within the reservation and off-
12 reservation trust land that first accrued at any
13 time prior to the enforceability date;

14 (ii) past, present, and future claims for in-
15 jury to water rights arising from time immemo-
16 rial and, thereafter, forever, that are based on
17 aboriginal occupancy of land by the Tribe and
18 its members, or their predecessors; and

19 (iii) claims for injury to water rights aris-
20 ing after the enforceability date for the reserva-
21 tion and off-reservation trust land resulting
22 from the off-reservation diversion or use of
23 water in a manner not in violation of the Agree-
24 ment or applicable law;

1 (C) past, present, and future claims arising out of or relating in any manner to the negotiation or execution of the Agreement or the negotiation or enactment of this Act;

5 (D) past and present claims relating in any manner to the litigation of claims relating to the Tribe's water rights for the reservation and off-reservation trust land that first accrued at any time prior to the enforceability date;

10 (E) past and present claims relating to the failure to maintain existing irrigation systems on the reservation constructed prior to the enforceability date that first accrued at any time prior to the enforceability date, which waiver shall only become effective upon the full appropriation and payment of such funds authorized by section 16(c)(4) to the Tribe;

18 (F) future claims relating to operation, maintenance, and replacement of the WMAT rural water system, which waiver shall only become effective upon the full appropriation of funds authorized by section 16(b) and their deposit into the Rural Water System OM&R Fund; and

1 (G) past, present, and future breach of
2 trust and negligence claims for damage to the
3 natural resources of the Tribe caused by ripar-
4 ian and other vegetative manipulation, includ-
5 ing over-cutting of forest resources by the
6 United States for the purpose of increasing
7 water runoff from the reservation.

8 (4) NO WAIVER OF CLAIMS.—Nothing in this
9 subsection waives any claim of the Tribe against the
10 United States for future takings by the United
11 States of reservation land or off-reservation trust
12 land or property rights appurtenant to those lands,
13 including any water rights set forth in paragraph
14 4.0 of the Agreement.

15 (b) EFFECTIVENESS OF WAIVER AND RELEASES.—
16 Except where otherwise specifically provided in subpara-
17 graphs (E) and (F) of subsection (a)(3), the waivers and
18 releases under subsection (a) shall become effective on the
19 enforceability date.

20 (c) ENFORCEABILITY DATE.—

21 (1) IN GENERAL.—This section takes effect on
22 the date on which the Secretary publishes in the
23 Federal Register a statement of findings that—

24 (A) to the extent the Agreement conflicts
25 with this Act, the Agreement has been revised

1 through an amendment to eliminate the conflict
2 and the Agreement, so revised, has been exe-
3 cuted by the Secretary, the Tribe and the Gov-
4 ernor of the State;

5 (B) the Secretary has fulfilled the require-
6 ments of sections 5 and 6;

7 (C) the funds authorized in section 13 and
8 16(a) have been appropriated and deposited in
9 the Rural Water Construction Fund;

10 (D) the State funds described in subpara-
11 graph 13.3 of the Agreement have been depos-
12 ited in the Rural Water Construction Fund;

13 (E) the Secretary has issued a record of
14 decision approving the construction of the
15 WMAT rural water system in a configuration
16 substantially similar to that described in section
17 7; and

18 (F) the judgments and decrees substan-
19 tially in the form of those attached to the
20 Agreement as exhibits 12.9.6.1 and 12.9.6.2
21 have been approved by the respective trial
22 courts.

23 (2) FAILURE OF ENFORCEABILITY DATE TO
24 OCCUR.—If, because of the failure of the enforce-
25 ability date to occur by October 31, 2013, this sec-

1 tion does not become effective, the Tribe and its
 2 members, and the United States, acting in the ca-
 3 pacity of trustee for the Tribe and its members,
 4 shall retain the right to assert past, present, and fu-
 5 ture water rights claims and claims for injury to
 6 water rights for the reservation and off-reservation
 7 trust land.

8 (3) NO RIGHTS TO WATER.—Other than the
 9 tribal water rights, upon the occurrence of the en-
 10 forceability date, all land held by the United States
 11 in trust for the Tribe and its members shall have no
 12 rights to water other than those specifically quan-
 13 tified for the Tribe and the United States, acting in
 14 the capacity of trustee for the Tribe and its mem-
 15 bers for the reservation and off-reservation trust
 16 land pursuant to paragraph 4.0 of the Agreement.

17 (d) UNITED STATES ENFORCEMENT AUTHORITY.—
 18 Nothing in this Act or the Agreement affects any right
 19 of the United States to take any action, including environ-
 20 mental actions, under any laws (including regulations and
 21 the common law) relating to human health, safety, or the
 22 environment.

23 **SEC. 13. LOAN TO TRIBE.**

24 (a) IN GENERAL.—Subject to the availability of ap-
 25 propriations, not later than 90 days after the date on

1 which appropriations are made available to carry out this
 2 section, the Secretary shall provide to the Tribe a loan
 3 in an amount of \$90,200,000 for the construction of the
 4 WMAT rural water system.

5 (b) TERMS AND CONDITIONS.—

6 (1) INTEREST; TERM.—The loan provided
 7 under subsection (a) shall—

8 (A) bear interest at a rate of 0 percent;
 9 and

10 (B) be repaid over a term of 13 years.

11 (2) FUNDS FOR REPAYMENT.—

12 (A) IN GENERAL.—For each of fiscal years
 13 2014 through 2025, in lieu of direct repayment
 14 by the Tribe of the loan provided under sub-
 15 section (a), the amount described in subpara-
 16 graph (B) shall be credited toward repayment
 17 of the loan.

18 (B) DESCRIPTION OF AMOUNT.—The
 19 amount referred to in subparagraph (A) is an
 20 amount in the Lower Colorado River Basin De-
 21 velopment Fund under section 403(f)(2)(D)(vi)
 22 of the Colorado River Basin Project Act (43
 23 U.S.C. 1543(f)(2)(D)(vi)) equal to—

24 (i) for fiscal year 2014, \$6,200,000;

1 (ii) for each of fiscal years 2015
 2 through 2024, \$8,000,000; and

3 (iii) for fiscal year 2025, \$4,000,000.

4 (3) REPAYMENT OF LOAN FOR THE PLANNING,
 5 ENGINEERING, AND DESIGN OF THE WMAT RURAL
 6 WATER SYSTEM.—

7 (A) IN GENERAL.—For each of fiscal years
 8 2013 and 2014, in lieu of direct repayment by
 9 the Tribe of the loan authorized in Public Law
 10 _____, the amount described in subparagraph
 11 (B) shall be credited toward repayment of the
 12 loan.

13 (B) DESCRIPTION OF AMOUNT.—The
 14 amount referred to in subparagraph (A) is a
 15 portion of the funds in the Lower Colorado
 16 River Basin Development Fund pursuant to
 17 section 403(f)(2)(D)(vi) of the Colorado River
 18 Basin Project Act (43 U.S.C.
 19 1543(f)(2)(D)(vi)) equal to—

20 (i) for fiscal year 2013, \$8,000,000;

21 and

22 (ii) for fiscal year 2014, \$1,800,000.

23 (C) TREATMENT.—Each credit under this
 24 paragraph shall be considered to be funds used
 25 in furtherance of the Agreement.

1 **SEC. 14. TRUST FUNDS.**

2 (a) ESTABLISHMENT.—There is established in the
3 Treasury of the United States—

4 (1) a fund to be known as the “Rural Water
5 System Construction Fund”, consisting of—

6 (A) the funds made available under section
7 13;

8 (B) the amounts appropriated to the fund
9 pursuant to section 16(a); and

10 (C) the funds provided in subparagraph
11 13.3 of the Agreement; and

12 (2) a fund to be known as the “Rural Water
13 System OM&R Fund”, consisting of amounts appro-
14 priated to the fund pursuant to section 16(b).

15 (b) MANAGEMENT.—The Secretary shall manage the
16 Rural Water System Construction Fund and the Rural
17 Water System OM&R Fund, including by—

18 (1) making investments from the funds; and

19 (2) distributing amounts from the funds to the
20 Tribe, in accordance with the American Indian
21 Trust Fund Management Reform Act of 1994 (25
22 U.S.C. 4001 et seq.).

23 (c) INVESTMENT OF FUNDS.—The Secretary shall in-
24 vest amounts in the funds in accordance with—

25 (1) the Act of April 1, 1880 (25 U.S.C. 161);

1 (2) the first section of the Act of June 24,
2 1938 (25 U.S.C. 162a);

3 (3) subsection (b);

4 (4) the obligations of Federal corporations and
5 Federal Government-sponsored entities the charter
6 documents of which provide that the obligations of
7 the entities are lawful investments for federally man-
8 aged funds, including—

9 (A) the obligations of the United States
10 Postal Service described in section 2005 of title
11 39, United States Code;

12 (B) bonds and other obligations of the
13 Tennessee Valley Authority described in section
14 15d of the Tennessee Valley Authority Act of
15 1933 (16 U.S.C. 831n-4);

16 (C) mortgages, obligations, and other secu-
17 rities of the Federal Home Loan Mortgage Cor-
18 poration described in section 303 of the Federal
19 Home Loan Mortgage Corporation Act (12
20 U.S.C. 1452); and

21 (D) bonds, notes, and debentures of the
22 Commodity Credit Corporation described in sec-
23 tion 4 of the Act of March 8, 1938 (15 U.S.C.
24 713a-4); and

(5) the obligations referred to in section 201 of the Social Security Act (42 U.S.C. 401).

(d) EXPENDITURES AND WITHDRAWALS.—

(1) TRIBAL MANAGEMENT PLANS.—

(A) IN GENERAL.—The Tribe may withdraw any portion of the Rural Water System Construction Fund or the Rural Water System OM&R Fund on approval by the Secretary of a tribal management plan under the American Indian Trust Fund Management Reform Act of 1994 (25 U.S.C. 4001 et seq.).

(B) REQUIREMENTS.—In addition to the requirements under that Act (25 U.S.C. 4001 et seq.), the tribal management plan shall require that the Tribe shall—

(i) use amounts in the Rural Water System Construction Fund only for the planning, design, and construction of the rural water system, including such sums as are necessary—

(I) for the Bureau to carry out oversight of the planning, design, and construction of the rural water system; and

1 (II) to carry out all required en-
2 vironmental compliance activities asso-
3 ciated with the planning, design, and
4 construction of the rural water sys-
5 tem; and

6 (ii) use amounts in the Rural Water
7 System OM&R Fund only for the oper-
8 ation, maintenance, and replacement costs
9 associated with the delivery of water
10 through the rural water system.

11 (2) ENFORCEMENT.—The Secretary may pur-
12 sue such judicial remedies and carry out such ad-
13 ministrative actions as are necessary to enforce the
14 tribal management plan to ensure that amounts in
15 the Rural Water System Construction Fund and the
16 Rural Water System OM&R Fund are used in ac-
17 cordance with this section.

18 (3) LIABILITY.—On withdrawal by the Tribe of
19 amounts in the Rural Water System Construction
20 Fund or the Rural Water System OM&R Fund, the
21 Secretary and the Secretary of the Treasury shall
22 not retain liability for the expenditure or investment
23 of those amounts.

24 (4) EXPENDITURE PLAN.—

1 (A) IN GENERAL.—The Tribe shall submit
 2 to the Secretary for approval an expenditure
 3 plan for any portion of the amounts in the
 4 funds under this section that the Tribe does not
 5 withdraw pursuant to this subsection.

6 (B) DESCRIPTION.—The expenditure plan
 7 shall describe the manner in which, and the
 8 purposes for which, the amounts remaining in
 9 the funds will be used.

10 (C) APPROVAL.—The Secretary shall ap-
 11 prove an expenditure plan under this paragraph
 12 if the Secretary determines that the plan is—

13 (i) reasonable; and

14 (ii) consistent with this Act.

15 (5) ANNUAL REPORTS.—The Tribe shall submit
 16 to the Secretary an annual report that describes
 17 each expenditure from the Rural Water System Con-
 18 struction Fund and the Rural Water System OM&R
 19 Fund during the year covered by the report.

20 (e) PROHIBITION ON PER CAPITA DISTRIBUTIONS.—
 21 No amount of the principal, or the interest or income ac-
 22 cruing on the principal, of the Rural Water System Con-
 23 struction Fund or the Rural Water System OM&R Fund
 24 shall be distributed to any member of the Tribe on a per
 25 capita basis.

1 (f) FUNDS NOT AVAILABLE UNTIL ENFORCEABILITY
 2 DATE.—Amounts in the Rural Water System Construc-
 3 tion Fund and the Rural Water System OM&R Fund shall
 4 not be available for expenditure or withdrawal by the
 5 Tribe until the enforceability date.

6 **SEC. 15. MISCELLANEOUS PROVISIONS.**

7 (a) LIMITED WAIVER OF SOVEREIGN IMMUNITY.—

8 (1) IN GENERAL.—In the case of a civil action
 9 described in paragraph (2)—

10 (A) the United States or the Tribe, or
 11 both, may be joined in the civil action; and

12 (B) any claim by the United States or the
 13 Tribe to sovereign immunity from the civil ac-
 14 tion is waived for the sole purpose of resolving
 15 any issue regarding the interpretation or en-
 16 forcement of this Act or the Agreement.

17 (2) DESCRIPTION OF CIVIL ACTION.—A civil ac-
 18 tion referred to in paragraph (1) is a civil action
 19 filed—

20 (A) by any party to the Agreement or sig-
 21 natory to an exhibit to the Agreement in a
 22 United States or State court that—

23 (i) relates solely and directly to the in-
 24 terpretation or enforcement of this Act or
 25 the Agreement; and

1 (ii) names as a party the United
2 States or the Tribe; or

3 (B) by a landowner or water user in the
4 Gila River basin or Little Colorado River basin
5 in the State that—

6 (i) relates solely and directly to the in-
7 terpretation or enforcement of paragraph
8 12.0 of the Agreement; and

9 (ii) names as a party the United
10 States or the Tribe.

11 (b) EFFECT OF ACT.—Nothing in this Act quantifies
12 or otherwise affects any water right or claim or entitle-
13 ment to water of any Indian tribe, band, or community
14 other than the Tribe.

15 (c) LIMITATION ON LIABILITY OF UNITED
16 STATES.—

17 (1) IN GENERAL.—The United States shall
18 have no trust or other obligation—

19 (A) to monitor, administer, or account for,
20 in any manner, any amount paid to the Tribe
21 by any party to the Agreement other than the
22 United States; or

23 (B) to review or approve the expenditure of
24 those funds.

1 (2) INDEMNIFICATION.—The Tribe shall indem-
 2 nify the United States, and hold the United States
 3 harmless, with respect to any claim (including claims
 4 for takings or breach of trust) arising out of the re-
 5 ceipt or expenditure of funds described in paragraph
 6 (1)(A).

7 (d) APPLICABILITY OF RECLAMATION REFORM
 8 ACT.—The Reclamation Reform Act of 1982 (43 U.S.C.
 9 390aa et seq.) and any other acreage limitation or full-
 10 cost pricing provision under Federal law shall not apply
 11 to any individual, entity, or land solely on the basis of—

- 12 (1) receipt of any benefit under this Act;
- 13 (2) the execution of this Act; or
- 14 (3) the use, storage, delivery, lease, or exchange
- 15 of CAP water.

16 (e) TREATMENT OF TRIBAL WATER RIGHTS.—The
 17 tribal water rights—

- 18 (1) shall be held in trust by the United States
- 19 in perpetuity; and
- 20 (2) shall not be subject to forfeiture or aban-
- 21 donment.

22 (f) SECRETARIAL POWER SITES.—The portions of
 23 the following named secretarial power site reserves that
 24 are located on the reservation shall be transferred and re-
 25 stored into the name of the Tribe:

1 (1) Lower Black River (T. 3 N., R. 26 E.; T.
2 3 N., R. 27 E.).

3 (2) Black River Pumps (T. 2 N., R. 25 E.; T.
4 2 N., R. 26 E.; T. 3 N., R. 26 E.).

5 (3) Carrizo (T. 4 N., R. 20 E.; T. 4 N., R. 21
6 E.; T. 4½ N., R. 19 E.; T. 4½ N., R. 20 E.; T.
7 4½ N., R. 21 E.; T. 5 N., R. 19 E.).

8 (4) Knob (T. 5 N., R. 18 E.; T. 5 N., R. 19
9 E.).

10 (5) Walnut Canyon (T. 5 N., R. 17 E.; T. 5 N.,
11 R. 18 E.).

12 (6) Gleason Flat (T. 4½ N., R. 16 E.; T. 5 N.,
13 R. 16 E.).

14 (g) NO EFFECT ON FUTURE ALLOCATIONS.—Water
15 received under a lease or exchange of tribal CAP water
16 under this Act shall not affect any future allocation or
17 reallocation of CAP water by the Secretary.

18 (h) AFTER-ACQUIRED TRUST LANDS.—

19 (1) REQUIREMENT OF ACT OF CONGRESS.—

20 (A) LEGAL TITLE.—After the enforce-
21 ability date, if the Tribe seeks to have legal title
22 to additional land in the State of Arizona lo-
23 cated outside the exterior boundaries of the res-
24 ervation taken into trust by the United States
25 for its benefit, the Tribe may do so only pursu-

ant to an Act of Congress specifically authorizing the transfer for the benefit of the Tribe.

(B) EXCEPTIONS.—Subparagraph (A) shall not apply to—

(i) restoration of land to the reservation subsequently and finally determined to be part of the reservation through resolution of any dispute between the Tribe and the United States over the location of the reservation boundary unless required by Federal law; or

(ii) off-reservation trust land acquired prior to January 1, 2008.

(2) WATER RIGHTS.—

(A) IN GENERAL.—Under this section, after-acquired trust land outside the reservation shall not include federally reserved rights to surface water or groundwater.

(B) RESTORED LAND.—Land restored to the reservation as the result of resolution of any reservation boundary dispute between the Tribe and the United States, or any fee simple land within the reservation that are placed into trust, shall have water rights pursuant to section 11(b).

1 (3) ACCEPTANCE OF LAND IN TRUST STATUS.—

2 (A) IN GENERAL.—If the Tribe acquires
3 legal fee title to land that is located within the
4 exterior boundaries of the reservation, the Sec-
5 retary shall accept the land in trust status for
6 the benefit of the Tribe in accordance with ap-
7 plicable Federal law (including regulations) for
8 such real estate acquisitions.

9 (B) RESERVATION STATUS.—Land taken
10 or held in trust by the Secretary under para-
11 graph (3), or restored to the reservation as a
12 result of resolution of a boundary dispute be-
13 tween the Tribe and the United States, shall be
14 deemed to be part of the reservation.

15 **SEC. 16. AUTHORIZATION OF APPROPRIATIONS.**

16 (a) RURAL WATER SYSTEM.—

17 (1) PLANNING, ENGINEERING, DESIGN, AND
18 CONSTRUCTION.—

19 (A) IN GENERAL.—There is authorized to
20 be appropriated for the planning, engineering,
21 design, and construction of the WMAT rural
22 water system \$126,193,000, as adjusted in ac-
23 cordance with subparagraph (B), less—

24 (i) the amount of any loans author-
25 ized under section 13; and

1 (ii) the funds to be provided under
2 subparagraph 13.3 of the Agreement.

3 (B) ADJUSTMENTS AND INCLUSIONS.—

4 The amount authorized to be appropriated
5 under subparagraph (A) shall—

6 (i) be adjusted as may be required
7 due to changes in construction costs of the
8 rural water system, as indicated by engi-
9 neering cost indices applicable to the types
10 of planning, engineering, design, and con-
11 struction occurring after October 1, 2007;
12 and

13 (ii) include such sums as are nec-
14 essary for the Bureau to carry out over-
15 sight of activities for planning, design, and
16 construction of the rural water system.

17 (2) ENVIRONMENTAL COMPLIANCE.—There are
18 authorized to be appropriated to the Secretary such
19 sums as are necessary to carry out all required Fed-
20 eral environmental compliance activities associated
21 with the planning, engineering, design, and construc-
22 tion of the rural water system.

23 (b) RURAL WATER SYSTEM OM&R.—There is au-
24 thorized to be appropriated \$50,000,000 for the operation,

1 maintenance, and replacement costs of the rural water
2 system.

3 (c) REHABILITATION OF RECREATION FACILITIES,
4 NATIONAL FISH HATCHERIES, AND EXISTING IRRIGA-
5 TION SYSTEMS.—There are authorized to be appropriated,
6 for use in accordance with section 8—

7 (1) \$23,675,000 to complete the Hawley Lake,
8 Horseshoe Lake, Reservation Lake, Sunrise Lake,
9 and Big and Little Bear Lake reconstruction
10 projects and facilities improvements;

11 (2) \$7,472,000 to the United States Fish and
12 Wildlife Service for the rehabilitation and improve-
13 ment of the Alchesay-Williams Creek National Fish
14 Hatchery Complex;

15 (3) \$5,000,000 to the Bureau of Indian Affairs
16 for the planning, design, and construction of the
17 WMAT Fishery Center; and

18 (4) for the rehabilitation of existing irrigation
19 systems—

20 (A) \$950,000 for the Canyon Day irriga-
21 tion system; and

22 (B) \$4,000,000 for the Historic irrigation
23 system.

1 (d) FEASIBILITY STUDY OF NEEDED FOREST PROD-
2 UCTS IMPROVEMENTS.—There are authorized to be appro-
3 priated—

4 (1) to the Bureau of Indian Affairs \$1,000,000
5 to conduct a feasibility study of the rehabilitation
6 and improvement of forest products manufacturing
7 and forest management on the reservation in accord-
8 ance with section 9; and

9 (2) \$24,000,000 to implement the recommenda-
10 tions developed under the study.

11 (e) SUNRISE SKI PARK SNOW-MAKING INFRASTRUC-
12 TURE.—There is authorized to be appropriated
13 \$25,000,000 for the planning, design, and construction of
14 snow-making infrastructure, repairs, and expansion at
15 Sunrise Ski Park in accordance with section 8.

16 (f) RECREATION IMPOUNDMENTS AND RELATED FA-
17 CILITIES.—There is authorized to be appropriated
18 \$25,000,000 to carry out section 10.

19 (g) ENVIRONMENTAL COMPLIANCE.—There are au-
20 thorized to be appropriated to the Secretary such sums
21 as are necessary to carry out all required environmental
22 compliance activities associated with the Agreement and
23 this Act.

24 (h) COST INDEXING.—The amounts authorized to be
25 appropriated under this section shall be adjusted as appro-

1 priate, based on ordinary fluctuations in engineering cost
2 indices applicable for the relevant types of construction,
3 if any, during the period beginning on October 1, 2007,
4 and ending on the date on which the amounts are made
5 available.

6 (i) EMERGENCY FUND FOR INDIAN SAFETY AND
7 HEALTH.—Effective beginning on January 1, 2010, if the
8 Secretary determines that, on an annual basis, the dead-
9 line described in section 12(c)(2) is not likely to be met
10 because the funds authorized in sections 13 and 16(a)
11 have not been appropriated and deposited in the Rural
12 Water System Construction Fund, not more than
13 \$50,000,000 of the amounts in the Emergency Fund for
14 Indian Safety and Health established by section 601(a)
15 of the Tom Lantos and Henry J. Hyde United States
16 Global Leadership Against HIV/AIDS, Tuberculosis, and
17 Malaria Reauthorization Act of 2008 (22 U.S.C. 7601 et
18 seq.) shall be transferred to the Rural Water System Con-
19 struction Fund.

20 **SEC. 17. ANTIDEFICIENCY.**

21 The United States shall not be liable for failure to
22 carry out any obligation or activity authorized to be car-
23 ried out, subject to appropriations, under this Act (includ-
24 ing any such obligation or activity under the Agreement)

1 if adequate appropriations for that purpose are not pro-
2 vided by Congress.

3 **SEC. 18. REPEAL ON FAILURE OF ENFORCEABILITY DATE.**

4 If the Secretary fails to publish in the Federal Reg-
5 ister a statement of findings as required under section
6 12(c) by not later than October 31, 2013—

7 (1) effective beginning on November 1, 2013—

8 (A) this Act is repealed; and

9 (B) any action carried out by the Sec-
10 retary, and any contract entered into, pursuant
11 to this Act shall be void;

12 (2) any amounts appropriated under sections
13 13 and subsections (a) and (b) of section 16, to-
14 gether with any interest accrued on those amounts,
15 shall immediately revert to the general fund of the
16 Treasury; and

17 (3) any amounts paid by the State in accord-
18 ance with the Agreement, together with any interest
19 accrued on those amounts, shall immediately be re-
20 turned to the State.

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